

BEFORE THE
CALIFORNIA BOARD OF OCCUPATIONAL THERAPY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

DEANNA JOY CAUDILLO
165 Morristown Lane
Costa Mesa, CA 92626

Respondent.

CASE NO. 1-2004

OAH No. L2004090072

DECISION

The attached proposed Decision of the Administrative Law Judge is hereby accepted and adopted by the Board of Occupational Therapy as its Decision of the in the above-entitled matter.

This Decision shall become effective on April 28, 2005.

IT IS SO ORDERED this 29th day of March 2005.

BOARD OF OCCUPATIONAL THERAPY



LUELLA GRANGAARD
PRESIDENT

lcp

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PROPOSED DECISION

This matter was heard by Deborah Myers-Young, Administrative Law Judge, Office of Administrative Hearings, at Los Angeles, California, on February 8, 2005. Complainant was represented by Shawn P. Cook, Deputy Attorney General. Respondent appeared in propria persona.

Evidence was received, argument was heard, and the case submitted for decision on the hearing date.

The Administrative Law Judge hereby makes her factual findings, legal conclusions, and orders, as follows.

FACTUAL FINDINGS

1. Complainant Gretchen L. KJose filed the accusation in the above-captioned matter while acting in her official capacity as the Executive Officer of the California Board of Occupational Therapy (Board), Department of Consumer Affairs.

2. Respondent Deanna Joy Caudillo (Respondent) was issued certificate of licensure No. TO 6430 by the Board as an occupational therapist. She was first licensed on February 28, 2003. Her certificate is current and will expire on August 31, 2005.

3. Respondent worked as an independent contractor for Nancy Press from approximately July 2000 to February 2003.¹ Ms. Press was a pediatric occupational therapist in private practice. Ms. Press has been licensed by the Board since 1977. Ms. Press had contracts with school districts and regional centers to provide occupational therapists for students and consumers. One of these schools was Enders Elementary School (Enders) in the Garden Grove Unified School District (District).

4. Respondent was contracted to provide occupational therapy to several students at Enders between September 2002 and December 2002. Respondent failed to provide therapy to two students. Respondent billed Ms. Press for therapy sessions she did not provide to these two students.

5. Ms. Press received complaints about Respondent from the District's Director of Special Education. The Director had received complaints from the students' parents. Ms. Press conducted an investigation with the District. She reached an agreement with the District to reimburse them for Respondent's improper billing in the sum of \$1700.00. She personally filed a complaint against Respondent with the Board. Ms. Press was very concerned about Respondent's billing practices. Ms. Press terminated Respondent's services in February 2003.

6. The Department of Consumer Affairs investigated the complaint and conducted an audit of Respondent's records. The auditor credibly testified that Respondent failed to provide therapy to at least two students and falsely submitted billing statements to Ms. Press for these two students. The auditor found that Respondent billed for at least five sessions in September, six sessions in October, four sessions in November, and four sessions in December 2002 when she did not provide the therapy.

7. One child's mother testified that Respondent failed to provide occupational therapy to her son during the months of September through December 2002. The mother's son had Down's syndrome and needed to receive occupational therapy twice a week pursuant to his Individualized Education Plan (IEP). Respondent told the mother that she would provide his therapy at school. The mother complained to the District at an IEP meeting when she spoke to her son's teacher and realized her son was not receiving therapy at school.

8. The childrens' teacher testified that she did not see Respondent come to her classroom to provide therapy for the children during the months of September through December 2002. The teacher testified that Respondent told her she was providing the occupational therapy to the children at their homes. The teacher and parent spoke about Respondent's failure to provide occupational therapy just before the IEP meeting.

9. Ms. Press questioned Respondent's truthfulness when Respondent made numerous excuses for not providing occupational therapy to many clients. Some of these clients were

¹ The facts did not establish whether Respondent was certified as an occupational therapist assistant at that time. The facts did establish that she was not licensed as an occupational therapist at this time.

regional center babies who were at high risk for developmental delays. Respondent would fail to keep the appointments, cancel at the last minute, or show up several hours late. Later, Ms. Press received complaints from the school districts that Respondent was similarly failing to keep appointments and showing up late. Ms. Press had many talks with Respondent over the years regarding Respondent's unprofessional behavior.

10. Ms. Press presented un rebutted expert testimony that Respondent's recordkeeping fell below the standard of care for occupational therapists. Respondent failed to take notes of the client's progress. Respondent failed to memorialize the dates of the therapy sessions. Respondent kept no record of her billing sheets. Respondent had no documentation to support her billing. The dates that Respondent claimed she provided therapy often did not coincide with the visitor sign-in sheets at the school's main office. In some instances, Respondent claimed that the child was absent on a particular day, and that she made up the session on a later date. Ms. Press requested the master attendance sheets from the school and discovered the child was never absent on these days.

11. The Respondent chose not to testify on her behalf. She did not provide any documentary evidence. The statements she made to the auditor, Ms. Press, the teacher, and the parents were inconsistent. Respondent appeared to have woven an intricate web of lies to many people. She told the teachers that the therapy was provided at home. She told the parents that the therapy was provided at school. Respondent told Ms. Press that the children were absent on the days she went to Enders. She told the auditor that she made up the therapy on different days. Respondent told the auditor that she couldn't understand why the mother didn't remember seeing her at her home. Respondent told the auditor that the teacher was flaky because she did not remember seeing Respondent in the classroom.

12. Respondent engaged in the unethical, unprofessional and fraudulent practice of billing for therapy sessions which were not provided. These acts are substantially related to the qualifications, functions and duties of an occupational therapist. Respondent fabricated an elaborate scheme to hide her lies. She defrauded multiple people and vulnerable children. Respondent intentionally failed to provide essential occupational therapy for at least two children with special needs. Respondent deprived these children of desperately needed services in a very critical period of their development. The public interest cannot be protected if Respondent maintains her license.

13. The Department requested that Respondent be required to pay reasonable costs of investigation and prosecution of this case. The request for cost recovery cited in the Accusation was Business and Professions Code section 2661.5, which governs cost recovery for the Physical Therapy Board only, not the Occupational Therapy Board.

LEGAL CONCLUSIONS

1. Cause exists to discipline Respondent's occupational therapist's license pursuant to Business and Professions Code section 2570.28(a) for unprofessional conduct based on Factual Findings 2 through 12 inclusive.

2. Cause exists to discipline Respondent's occupational therapist's license pursuant to Business and Professions Code section 2570.28(h) for committing fraudulent acts substantially related to the qualifications functions and duties of an occupational therapist based on Factual Findings 2 through 12 inclusive.

3. Cause exists to discipline Respondent's occupational therapist's license pursuant to Business and Professions Code section 2570.28 for making grossly incorrect entries in a patient record or any other record based on Factual Findings 2 through 12 inclusive.

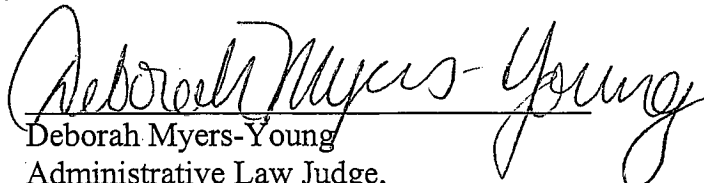
4. Complainant is not entitled to reasonable costs of investigation and prosecution of this matter based on Factual Finding 13.

5. The Department requested the reasonable costs of investigation and prosecution of this matter. However, the request for cost recovery was improperly cited in the Accusation as Business and Professions Code section 2661.5, which applies only to the Physical Therapy Board. The governing Board in this case is the Occupational Therapy Board, not the Physical Therapy Board. Respondent was not represented by counsel and was not given proper notice of the cost recovery statute applicable to her. The citation should have been Business and Professions Code section 125.3. This failure deprived Respondent of due process in that she apparently did not have notice and a full opportunity to prepare her defense against the cost recovery requested. Accordingly, no cost recovery is awarded.

ORDER

The occupational therapist certificate of licensure No. TO 6430 and corresponding licensing rights of Respondent Deanna Joy Caudillo are hereby revoked.

March 10, 2005


Deborah Myers-Young
Administrative Law Judge,
Office of Administrative Hearings